ter, better results might be secured, it would seem, by delegating to administrative boards, similar to those now administering the minimum wage statutes in several states, the task of fixing the exact fields of industry to which the restrictions should apply. See 2 GEO. V, c. 2; WIS. LAWS, 1913, ch. 381; 4 AM. LAB. LEG. REV. 13; 28 HARV. L. REV. 89.

CONSTITUTIONAL LAW — POWERS OF LEGISLATURE: TAXATION — STAMP TAX ON BILL OF COSTS IN STATE COURT. — The United States War Revenue Act of October 22, 1914, on a fair construction, required a litigant in a state court to affix a revenue stamp to his bill of costs, and forbade the clerk of court to certify the bill before a stamp was attached. *Held*, that the provision is unconstitutional. *Neldert* v. *Chicago, R. I. & P. R. Co.*, City Ct., N. Y., Feb. 9, 1915 (not yet reported).

Congress may not impede the states in the exercise of their reserved governmental powers, one of which is the administration of justice. *Collector* v. *Day*, 11 Wall. (U. S.) 113; *Bettman* v. *Warwick*, 108 Fed. 46. Although a tax, the financial burden of which falls directly or indirectly on the state, is the usual mode in which this has been attempted, embarrassments of every description are equally obnoxious to the Constitution. *Jones* v. *Keep*, 19 Wis. 369; see *McNally* v. *Field*, 119 Fed. 445, 447. So the tax in the principal case, although it comes out of the litigant's pocket, is objectionable because payment of it is made a condition precedent to execution of the state court's judgment. It has been suggested that the litigant might be held personally liable for the tax, even though the state court's process could not be obstructed to enforce payment. See Downer, J., *diss.*, in *Jones* v. *Keep*, *supra*, 388. But it is submitted that such a tax on the privilege of seeking justice in the state tribunals would likewise contravene the right of the state to administer justice on its own terms among those who resort to its courts.

CONTRIBUTION — SHIFTING OF CRIMINAL PENALTY TO ONE PRIMARILY RESPONSIBLE. — The plaintiffs, moneylenders, hired the defendants to address envelopes to persons whose names appeared in a certain handbook, but to omit minors. The defendants carelessly included a minor among the addressees, and the plaintiffs innocently sent him a circular. The plaintiffs were convicted of the statutory misdemeanor of sending a moneylender's circular to an infant without reasonable grounds to believe him of full age. This is an action to recover the amount of the fine and costs. *Held*, that only nominal damages are recoverable. *R. Leslie (Ltd.)* v. *Reliable Advertising and Addressing Agency (Ltd.)*, [1915] 1 K. B. 652.

For a discussion of the novel question of whether one who has suffered a criminal penalty may recover its amount in damages from the one who was responsible for his committing the crime, see NOTES, p. 687.

CORPORATIONS — STOCKHOLDERS: RIGHTS INCIDENT TO MEMBERSHIP — RESTRICTION ON TRANSFER OF SHARES IN AGREEMENT OF ASSOCIATION. — Under a Massachusetts statute which provided that any restrictions on the transfer of stock should be set forth in the agreement of association, it was provided in the agreement and noted on the certificates that none of the shares should be transferred without consent of three-fourths of the capital stock. The defendants acquired stock without complying with this requirement, and now claim to be stockholders and hence qualified to act as directors, on the ground that the restriction is void. *Held*, that the restriction is valid. *Longyear* v. *Hardman*, 219 Mass. 405, 106 N. E. 1012.

Corporations, like other associations of individuals, often find it expedient for various reasons to limit the admission of new members. While this is usually accomplished by placing restrictions on the transfer of the stock, the

consequent restraint on alienation has not usually been deemed to be against public policy. See *Bargate* v. *Shortridge*, 5 H. L. Cas. 297, 311; *Borland's Trustee* v. *Steel Brothers & Co., Ltd.*, [1901] 1 Ch. 279; GRAY, RESTRAINTS, 2 ed., § 29*d*. Any such restriction, however, must acquire its force either from incorporation in the agreement of association as one of the original incidents of the share or else by means of a by-law in some way binding upon the holders. It is generally said that a mere by-law is not sufficient to create the restriction on the right to transfer the stock. *Kinnan* v. *Sullivan County Club*, 26 N. Y. App. Div. 213, 50 N. Y. Supp. 95; *Sargent* v. *Franklin Insurance Co.*, 8 Pick. (Mass.) 90. *Cf. Brinkerhoff-Farris Trust & Savings Co.* v. *Home Lumber Co.*, 118 Mo. 447, 24 S. W. 129. But even a by-law will effectively impose the restriction if the stock recites the limitation, or is clearly taken on those terms. *New England Trust Co.* v. *Abbott*, 162 Mass. 148, 38 N. E. 432; *Barrett* v. *King*, 181 Mass. 476, 63 N. E. 934. *Cf. Nicholson* v. *Brewing Co.*, 82 Oh. St. 94, 91 N. E. 991. See Uniform Stock Transfer Act, § 15. On the other hand, by express agreement among themselves the stockholders themselves may restrict the transfer of shares almost without limitation. See *Fitzsimmons* v. *Lindsay*, 205 Pa. 79, 82, 54 Atl. 488, 489; *Williams* v. *Montgomery*, 148 N. Y. 519, 43 N. E. 57; 20 HARV. L. REV. 328. Similarly, where the restrictions are found in the agreement of association and referred to on the certificates, they are treated as inherent in the share itself and consequently bind all holders. *Gibbs* v. *Long Island Bank*, 83 Hun (N. Y.) 92, 31 N. Y. Supp. 406. In the principal case the statute itself showed there was no policy against restrictions, and there was no valid objection, therefore, to limitations expressed in the agreement and repeated in the certificates, and found by the court to be entirely reasonable in view of the nature and purposes of the association.

DAMAGES — MEASURE OF DAMAGES: TORT — SEVERANCE FROM REALTY: WILFUL AND INNOCENT TRESPASS. — The defendants carried off a quantity of ore from the plaintiff's mine, milled it, and sold the finished product. Part of the ore was taken with knowledge of the plaintiff's rights. In an action of trespass, the court instructed the jury that the measure of damages for innocent trespass was the gross proceeds of the sale less all the defendant's expenses; but that when the trespass was wilful, the defendant was entitled to no deductions. *Held*, that these instructions are correct. *Liberty Bell Gold Mining Co.* v. *Moorhead Mining & Milling Co.*, 145 Pac. 686 (Colo.).

By the weight of authority, the measure of damages for an innocent trespass is, as stated in the principal case, the value of the ore in the ground, plus any profits of the transaction. *Forsyth* v. *Wells*, 41 Pa. 291; *Burke Hollow Coal Co.* v. *Lawson*, 151 Ky. 305, 151 S. W. 657. See *Winchester* v. *Lang*, 33 Mich. 205; *Dougherty* v. *Chestnut*, 86 Tenn. 1. This rule adequately compensates the plaintiff for the injury suffered, and inflicts no penalty on the defendant. A harsher rule, allowing the plaintiff to recover the value of the ore after severance, is in force in some jurisdictions. *Donovan* v. *Consolidated Coal Co.*, 187 Ill. 28, 58 N. E. 290; *Barton Coal Co.* v. *Cox*, 39 Md. 1. A few states apply this larger measure of damages only when the action is in trover. *Ivy Coal & Coke Co.* v. *Alabama Coal & Coke Co.*, 135 Ala. 579, 33 So. 547. · *Cf. Warrior Coal & Coke Co.* v. *Mabel Mining Co.*, 112 Ala. 624, 20 So. 918. This distinction is objectionable as giving two measures of damages for the same injury. It does not exist, of course, where forms of action have been abolished. See SEDGWICK, DAMAGES, 9 ed., § 500 *et seq.* Where the trespass is wilful, the plaintiff, by the great weight of authority, can recover the full value of the converted article at the time of demand. *St. Clair* v. *Cash Gold Mining & Milling Co.*, 9 Colo. App. 235, 47 Pac. 466; *Liberty Bell Co.* v. *Smuggler Co.*, 203 Fed. 795. *Cf. Single* v. *Schneider*, 30 Wis. 570; *McGuire* v. *Boyd Coal & Coke Co.*, 286 Ill. 69,